REMARKS

The Applicants appreciate the Examiner's thorough examination of the subject application. Applicants request reconsideration of the subject application based on the following remarks.

Claims 1-27, 36-52 are currently pending in the application, of which claims 12, 13, and 21 have been withdrawn from consideration. Claims 1, 5, 7-14, 21-27, 25, 26, 40, 42, and 43 have been amended, new claims 44-52 have been added, and claims 28-34 have been cancelled without prejudice or disclaimer to Applicants right to pursue the subject matter of the cancelled claims in this or a subsequent application. Support for the amendments to the claims can be found in the specification. No new matter has been added by the amendments to the specification or the claims.

The office action indicated that the Applicants election was not clear in terms of the claims that read on the elected species.

Claims 8-11, and 22-36 were objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only nad cannot depend from any other multiple dependent claims.

The claims as amended are fully compliant with the multiple dependent formatting rules provided in 37 CRF 1.75(c).

Claims 1-11, 14-20, and 22-36 were rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 as originally filed particularly points out and distinctly claims the subject matter of the invention. That is, claim 1 provides a pharmaceutical composition comprising a microparticle, said microparticle comprising at least one therapeutic agent and a polymeric support material composed of at least 50% of a homopolymer of Formula (I), which polymeric support material is capable of dispersing a substance therein.

However, in the interest of expediting prosecution, the format of claim 1 has been amended to more particularly point out the subject matter of the claimed invention.

Thus, the claims, as originally filed and as amended, are fully compliant with the requirements of 35 U.S.C. §112, including the requirements of §112, second paragraph.

Claims 1-11, 14-20, 22-43 were rejected under 35 U.S.C. §102(e) as being anticipated by Bru-Magniez (U.S. Patent 6,211,273).

The office action alleges that the compositions recited in the Bru-Magniez document satisfy the limitations of the claims.

Applicants respectfully disagree. The present invention provides pharmaceutical compositions comprising microparticles which are composed of a polymeric material having at least 50% of the monomer repeat units according to Formula (I) and a therapeutic agent. More particularly, the specification teaches that microparticles have a mean particle size of between 0.5μm and 100μm. Although Applicants believe that claim 1 as originally filed provides pharmaceutical compositions that are patentable over the documents of record in the instant application, claim 1 has been amended to particularly point out the intended meaning given to the term "microparticle" by the specification.

In contrast, Bru-Magniez recites various nanoparticle compositions in which the average particle size is less than 500 nm. Thus, the Bru-Magniez compositions do not satisfy the language of claim 1 as originally filed or as presently amended.

Thus, claim 1 as amended is patentable over the teaching of Bru-Magniez. Claims 2-11, 14-20, 22-27, and 35-52 depend from claim 1 and are therefore also patentable over the teachings of Bru-Magniez.

Early consideration and allowance of the application are earnestly solicited.

Respectfully submitted,

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